

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MAKE THE ROAD NEW YORK, *et al.*,

*Plaintiffs,*

v.

KENNETH CUCCINELLI, *et al.*,

*Defendants.*

No. 19-07993 (GBD)

STATE OF NEW YORK, *et al.*

*Plaintiffs,*

v.

U.S. DEPARTMENT OF HOMELAND  
SECURITY, *et al.*

*Defendants.*

No. 19-cv-07777 (GBD)

**DEFENDANTS' PARTIAL MOTION TO DISMISS**

PLEASE TAKE NOTICE that upon the accompanying memorandum of law and the declarations of Juliana J. Blackwell and Neal J. Swartz, and accompanying exhibits, Defendants will move this Court pursuant to Federal Rule of Civil Procedure 12(b)(6) for an order granting a partial motion to dismiss Plaintiffs' claims for relief under the Federal Vacancies Reform Act, 5 U.S.C. §§ 3345–3348, the Administrative Procedure Act, 5 U.S.C. § 706, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

Dated: November 17, 2020

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Acting United States Attorney

Respectfully submitted,

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*/s/ Keri L. Berman*

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served on all counsel of record by operation of the court's electronic filing system and can be accessed through that system.

DATED: November 17, 2020

/s/ Keri L. Berman  
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